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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences**

Applicants: Malin E. Holcomb, *et al.*

Art Unit: 3636

Serial No. 10/725,048

Examiner: Edell

Filed: December 1, 2003

For: Adjustable Seat Back for a Wheelchair

APPELLANTS' REPLY BRIEF ON APPEAL

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Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby submit this Reply Brief to address several statements made in the Examiner's Answer dated January 12, 2006 in the above-identified appeal.

In the paragraph bridging pages 4 and 5 of the Answer, reference is made to the definition of the word "scarf" in *Merriam Webster's Collegiate Dictionary, Tenth Edition*. Because a copy of that reference did not accompany the Answer, Applicants hereby submit copy with full text of that definition. The Examiner's Answer states that claim 9 in the Chew, *et al.* patent teaches that "the foam bodies would be bolted and/or bonded together

as a scarf joint.” However, that patent’s claim does not mention such a scarf joint or the foam bodies on the back member and the two lateral supports being fastened together. In fact, the Examiner is reading too much into the literal language of that claim which states:

“9. A back assembly as set forth in claim 8, wherein said back member is covered by foam and said lateral supports include foam scarfed so as to permit adjustability of the supports relative to the back.” (emphasis added)

Thus the claim is using the word “scarf” according to the first dictionary definition to denote that the ends of the different foam bodies are chamfered to fit together. However, the adjustability that the claim states is permitted by such scarfing would be negated if the different foam bodies were bolted or fastened together. Therefore, the only logical interpretation of the description in claim 9, as there is no other description or illustration of a scarf in the patent, is that the scarfed ends of the foam bodies are not fastened together. Thus, the reasonable interpretation of claim 9 is that the two bodies loosely overlap so as to slide with respect to each other for to permit seat adjustability.

Therefore, unlike the presently claimed invention in which the seat cushion has a single body that stretches and contracts to conform to alteration of the curvature of the seat shell, the Chew, *et al.* structure has separate foam bodies that slide with respect to one another to provide adjustability. A sliding action between two bodies is not the same as a single body the stretches and contracts.

The Applicants point out that Diagram B in the Examiner’s Answer is not found in the Chew, *et al.* patent and nothing like it is illustrated in that reference. Although the legend beneath that diagram refers to Figure 3 of that patent, that figure is an isometric view of the seat back shell not a side view and does not show a cushion. In fact none of

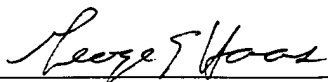
the drawings in Chew, *et al.* show a cushion. Thus Diagram B in the Answer is a newly concocted illustration based on the Examiner's interpretation of the reference. In fact, that diagram shows how different foam bodies can be attached to the seat back and lateral supports in that patent so as to slide over each other to permit seat adjustability.

In the paragraph at the bottom of page 8, the Answer argues regarding the rejection of claims 6, 14 and 19, that "any cloth material inherently is stretchable to some degree." While this may be true on a microscopic level, that does not necessarily suggest the degree of stretchability for the cover that allows the cushion body to stretch and contract enough to conform to alteration of the seat shell. Such conformity requires considerable stretching of the cover material and not merely "to some degree." Furthermore, the seat cover 11 in the Stulik patent does not need to stretch at all, because it is pleated at grooves 14 in Figures 2 and 3. Thus, the ability of a cover to stretch on a microscopic level is an insufficient teaching on which to base a rejection of Claims 6, 14 and 19.

Applicants renew their request for reversal of the Final rejection in the present patent application.

Respectfully submitted,
Malin E. Holcomb, *et al.*

Dated: February 15, 2006

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scan *n* (1706) 1: the act or process of scanning 2: a radar or television trace 3 a: a depiction (as a photograph) of the distribution of a radioactive material in something (as a bodily organ) b: an image of a bodily part produced (as by computer) by combining radiographic data obtained from several angles or sections

scan-dal \ˈskan-dəl/ *n* [ME, fr. LL *scandalum* stumbling block, offense, fr. Gk *skandalon* trap, stumbling block, offense; akin to L *scandere* to climb] (13c) 1 a: discredit brought upon religion by unseemly conduct in a religious person b: conduct that causes or encourages a lapse of faith or of religious obedience in another 2: loss of or damage to reputation caused by actual or apparent violation of morality or propriety: DISGRACE 3 a: a circumstance or action that offends propriety or established moral conceptions or disgraces those associated with it b: a person whose conduct offends propriety or morality 4: malicious or defamatory gossip 5: indignation, chagrin, or bewilderment brought about by a flagrant violation of morality, propriety, or religious opinion *syn* see OFFENSE

scandal *vi* (1592) 1 obs: DISGRACE 2 chiefly dial: DEFAME, SLANDER

scan-dal-ize \ˈskan-də-līz/ *vt* -ized, -izing (1566) 1: to speak falsely or maliciously of 2 *archaic*: to bring into reproach 3: to offend the moral sense of: SHOCK

scan-dal-mon-ger \ˈskan-dəl-mən-gər, -mən-/ *n* (1721): a person who circulates scandal — **scan-dal-mon-ger-ing** \-g(ə)-rɪŋ/ *n*

scan-dal-ous \ˈskan-dəl-əs/ *adj* (1603) 1: LIBELOUS, DEFAMATORY 2: offensive to propriety, or morality: SHOCKING — **scan-dal-ous-ly** *adv* — **scan-dal-ous-ness** *n*

scandal sheet *n* (1904): a newspaper or periodical dealing to a large extent in scandal and gossip

scan-dent \ˈskan-dənt/ *adj* [L *scandens*, *scandens*, prp. of *scandere* to climb — more at SCAN] (ca. 1682): characterized by a climbing mode of growth (~ stems) (~ vines)

Scan-di-an \ˈskan-dē-ən/ *adj* [L *Scandia*] (1668) 1: SCANDINAVIAN 2: of or relating to the languages of Scandinavia — **Scandinavian** *n*

Scan-di-na-vian \ˈskan-də-nā-vē-ən, -vyan/ *n* (1766) 1: the North Germanic languages 2 a: a native or inhabitant of Scandinavia b: a person of Scandinavian descent — **Scandinavian** *adj*

scan-di-um \ˈskan-dē-əm/ *n* [NL, fr. L *Scandia*, ancient name of southern Scandinavian peninsula] (1879): a white metallic element found in association with rare earth elements — see ELEMENT table

scan-ner \ˈska-nər/ *n* (1557): one that scans: as a: a device for sensing recorded data b: a device (as a CAT scanner) used for scanning something (as the human body)

scanning electron microscope *n* (1953): an electron microscope in which a beam of focused electrons moves across the object with the secondary electrons produced by the object and the electrons scattered by the object being collected to form a three-dimensional image on a cathode-ray tube — called also *scanning microscope* — **scanning electron microscopy** *n*

scan-sion \ˈskan(t)-shən/ *n* [LL *scansion*, *scansio*, fr. L, act of climbing, fr. *scandere*] (1671): the analysis of verse to show its meter

scant \ˈskant/ *adj* [ME, fr. ON *skamt*, neut. of *skammr* short] (14c) 1 dial a: excessively frugal b: not prodigal: CHARY 2 a: barely or scarcely sufficient; esp: not quite coming up to a stated measure b: lacking in amplitude or quantity 3: having a small or insufficient supply (he's fat, and ~ of breath — Shak.) *syn* see MEAGER — **scant-ly** *adv* — **scant-ness** *n*

scant *adv* (15c) dial: SCARCELY, HARDLY

scant *vi* (ca. 1580) 1: to provide an incomplete supply of: WITHHOLD 2: to make small, narrow, or meager: SKIMP 3: to give scant attention to: SLIGHT 4: to provide with a meager or inadequate portion or allowance: STINT

scant-ies \ˈskan-tēz/ *n pl* [blend of *scant* and *panties*] (1929): abbreviated panties for women

scant-ling \ˈskant-lɪŋ, -lən/ *n* [alter. of ME *scantillon*, lit., mason's or carpenter's gauge, fr. ONF *scantillon*] (1555) 1 a: the dimensions of timber and stone used in building b: the dimensions of a frame or strake used in shipbuilding 2: a small quantity, amount, or proportion: MODICUM 3: a small piece of lumber (as an upright piece in house framing)

scanty \ˈskan-tē/ *adj* **scant-i-er**, -est [E dial. *scant* scanty supply; fr. ME, fr. ON *skamt*, fr. neut. of *skammr* short] (1660): limited or less than sufficient in degree, quantity, or extent *syn* see MEAGER — **scant-i-ly** \ˈskan-tē-lē/ *adv* — **scant-i-ness** \ˈskan-tē-nəs/ *n*

scape \ˈskæp/ *vb* **scaped**; **scaping** [ME, short for *escapen*] (13c): ESCAPE

scape *n* [L *scapus* shaft, stalk — more at SHAFT] (1601) 1: a peduncle arising at or beneath the surface of the ground in an acaulescent plant (as the tulip); broadly: a flower stalk 2: the shaft of an animal part (as an antenna or feather)

scape *n* [landscape] (1773): a view or picture of a scene — usu. used in combination (cityscape)

scape-goat \ˈskæp-gōt/ *n* [*scape*, intended as trans. of Heb *azazel* (prob. name of a demon), as if *azazel* goat, that departs — Lev 16:8 (AV)] (15c) 1: a goat upon whose head are symbolically placed the sins of the people after which he is sent into the wilderness in the biblical ceremony for Yom Kippur 2 a: one that bears the blame for others b: one that is the object of irrational hostility

scapegoat *vi* (1943): to make a scapegoat of — **scape-goat-ism** \-gō-ti-zəm/ *n*

scape-grace \ˈskæp-grās/ *n* [*scape*] (1809): an incorrigible rascal

scaph-oid \ˈska-fōid/ *n* [NL *scaphoides*, fr. Gk *skapheoidēs*, fr. *skaphe* boat] (1846): the bone of the thumb side of the carpus that is the largest in the proximal row; also: the navicular bone of the tarsus — **scaphoid** *adj*

scap-olite \ˈska-pə-līt/ *n* [F, fr. L *scapus* shaft + F *-olite*, fr. the prismatic shape of its crystals] (1802): any of a group of minerals that are essentially complex silicates of aluminum, calcium, and sodium and that include some used as semiprecious stones

scap-ose \ˈskä-pōs/ *adj* (ca. 1903): bearing, resembling, or consisting of a scape (the terminal ~ flowers of a pyrola)

scap-u-lar \ˈska-pyū-lə/ *n pl* -læ, -lī, -lī, or -las [NL, fr. L *scapula* blade, shoulder] (1578): either of a pair of large triangular bones lying one in each dorsal lateral part of the thorax, being the principal bone of

the corresponding half of the shoulder girdle, and articulating with the corresponding clavicle or coracoid — called also *shoulder blade*

scap-u-lar \ˈlār/ *n* [ME *scapulare*, fr. LL, fr. L *scapula* shoulder] (15c) 1 a: a long wide band of cloth with an opening for the head worn front and back over the shoulders as part of a monastic habit b: a pair of small cloth squares joined by shoulder tapes and worn under the clothing on the breast and back as a sacramental and often also as a badge of a third order or confraternity 2 a: SCAPULA b: one of the feathers covering the base of a bird's wing — see BIRD illustration

scapular *adj* [NL *scapularis*, fr. *scapula*] (1713): of or relating to the shoulder, the scapula, or scapulars

scapular medal *n* (1912): a medal worn in place of a sacramental scapular

scar \ˈskär/ *n* [ME *skere*, fr. ON *sker* skerry; prob. akin to ON *skera* to cut — more at SHEAR] (14c) 1: an isolated or protruding rock 2: a steep rocky eminence: a bare place on the side of a mountain

scar *n* [ME *escare*, *scar*, fr. MF *escare* scab, fr. LL *eschara*, fr. Gk, hearth, brazier, scab] (14c) 1: a mark left (as in the skin) by the healing of injured tissue 2 a: a mark left on a stem or branch by a fallen leaf or harvested fruit b: CICATRIX 2 3: a mark or indentation resulting from damage or wear (the ~s of bullets on the ~ church door — Kay Boyle) 4: a lasting moral or emotional injury (one of his men had been killed ~ in a manner that left a ~ upon his mind — H. G. Wells) — **scar-less** \-ləs/ *adj*

scar *vb* **scarred**; **scar-ry** *vi* (1555) 1: to mark with a scar 2: to do lasting injury to ~ *vi* 1: to form a scar 2: to become scarred

scar-ab \ˈskar-əb/ *n* [MF *scarabee*, fr. L *scarabaeus*] (1579) 1: any of a family (Scarabaeidae) of stout-bodied beetles (as a dung beetle) with lamellate or flabellate antennae 2: a stone or faience beetle used in ancient Egypt as a talisman, ornament, and a symbol of resurrection

scar-a-bae-us \ˈskar-ə-ˈbē-əs/ *n* [L] (1664): SCARAB 2

scar-a-mouch or **scar-a-mouche** \ˈskar-ə-müş, -müch, -maüch/ *n* [F *Scaramouche*, fr. It *Scaramuccia*, fr. *scaramuccia* skirmish] (1662) 1 cap: a stock character in the Italian commedia dell'arte that burlesques the Spanish don and is characterized by boastfulness and cowardliness 2 a: a cowardly buffoon b: RASCAL, SCAMP

scarce \ˈskers, -skars/ *adj* **scarce-er**; **scarce-est** [ME *scars*, fr. ONF *escars*, fr. (assumed) VL *excarpsus*, lit., plucked out, pp. of L *excarpere* to pluck out — more at EXCERPT] (14c) 1: deficient in quantity or number compared with the demand: not plentiful or abundant 2: intentionally absent (made himself ~ at inspection time) *syn* see INFREQUENT — **scarce-ness** *n*

scarce *adv* (15c): SCARCELY, HARDLY

scarce-ly *adv* (14c) 1 a: by a narrow margin: only just (had ~ rung the bell when the door flew open — Agnes S. Turnbull) b: almost not (could ~ see for the fog) 2 a: certainly not (could ~ interfere between another man and his own beast — Owen Wister) b: probably not (there could ~ have been found a leader better equipped — V. L. Parrington)

scar-ci-ty \ˈsker-sə-tē, -stē/ *n pl* -ties (14c): the quality or state of being scarce; esp: want of provisions for the support of life

scar-e \ˈsker, -skar/ *vb* **scarred**; **scar-ing** [ME *skerren*, fr. ON *skirra*, fr. *skjarr* shy, timid] *vi* (13c): to frighten esp. suddenly: ALARM ~ *vi*: to become scared — **scar-er** *n*

scar-e *n* (ca. 1548) 1: a sudden fright 2: a widespread state of alarm: PANIC — **scar-e** *adj*

scar-e-crow \ˈsker-kro, -skar-/ *n* (1573) 1 a: an object usu. suggesting a human figure that is set up to frighten birds (as crows) away from crops b: something frightening but harmless 2: a skinny or ragged person

scar-ed *adj* (1590): thrown into or being in a state of fear, fright, or panic (~ of snakes) (~ to go out)

scar-ed-y-cat \ˈsker-dē-kat, -skar-/ *n* [*scarred* (pp. of *scar-e*) + *-y* + *cat*] (1948): an unduly fearful person

scar-e-head \ˈsker-hed, -skar-/ *n* (1887): a big, sensational, or alarming newspaper headline

scar-e-mon-ger \-mən-gər, -mən-/ *n* (1888): one inclined to raise or excite alarms esp. needlessly

scar-e up *vi* (1841): to find or get together with considerable labor or difficulty: **scar-e up** (managed to **scar-e up** the money)

scarf \ˈskärf/ *n pl* scarfs [ME *skarf*, prob. of Scan origin; akin to ON *skarfr* scarf] (15c) 1: either of the chamfered or cutaway ends that fit together to form a scarf joint 2: a joint made by chamfering, halving, or notching two pieces to correspond and lapping and bolting them — called also *scarf joint*

scarf also **scarph** \ˈskärf/ *vi* (1627) 1: to unite by a scarf joint 2: to form a scarf on

scarf *n pl* scarves \ˈskärvz/ or scarfs [ONF *escarpe* sash, sling] (1555) 1 a: a military or official sash usu. indicative of rank b *archaic*: TIPPET 3 2: a broad band of cloth worn about the shoulders, around the neck, or over the head 3: RUNNER 6b

scarf *vi* (1598) 1: to wrap, cover, or adorn with or as if with a scarf 2: to wrap or throw on (a scarf or mantle) loosely

scarf *vi* [by alter.] (ca. 1960): **SCOFF** 1 (~ed down my sandwich)

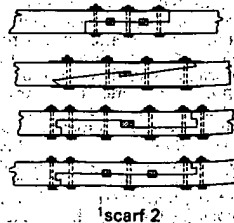
scarf-pin \ˈskärf-pin/ *n* (1859): TIEPIN

scarf-skin \ˈskärf-skin/ *n* [*scarf*] (1615): EPIDERMIS; esp: that forming the cuticle of a nail

scar-i-fi-ca-tion \ˈskar-ə-fə-ˈkā-shən, -sker-/ *n* (14c) 1: the act or process of scarifying 2: a mark or marks made by scarifying

scar-i-fy \ˈskar-ə-fī, -sker-/ *vi* -fied, -fy-ing [ME *scarifier*, fr. ME *scarifier*, fr. LL *scarificare*, alter. of L *scarifare*, fr. Gk *skariphasthai* to scratch an outline, sketch — more at SCRIBE] (14c) 1: to make scratches or small cuts in (as the skin) (~ an area for vaccination) 2: to lacerate the feelings of 3: to break up and loosen the surface of (as a field or road) 4: to cut or soften the wall of (a hard seed) to hasten germination — **scar-i-fier** \-fī-(ə)r/ *n*

scar-i-fy *vi* -fied, -fy-ing (1794): SCARE, FRIGHTEN — **scar-i-fy-ing-ly** \-fī-ɪŋ-lē/ *adv*



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